

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2617**

Chapter 212, Laws of 2006

59th Legislature  
2006 Regular Session

OFF-ROAD VEHICLES

EFFECTIVE DATE: 6/7/06

Passed by the House March 4, 2006  
Yeas 90 Nays 7

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 1, 2006  
Yeas 46 Nays 0

BRAD OWEN

**President of the Senate**

Approved March 24, 2006.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2617** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

**Chief Clerk**

FILED

March 24, 2006 - 2:29 p.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 2617

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AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Kretz, Blake, Ahern, Schindler, Sump, Condotta, Holmquist, Kristiansen, Serben, Campbell, McDonald, Hinkle and Dunn

Read first time 01/11/2006. Referred to Committee on Transportation.

1            AN ACT Relating to allowing local jurisdictions to allow off-road  
2 vehicles to operate on designated city or county roads; amending RCW  
3 46.09.115, 46.09.120, 46.09.180, and 46.37.010; and reenacting and  
4 amending RCW 46.16.010 and 4.24.210.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 46.16.010 and 2005 c 350 s 1, 2005 c 323 s 2, and 2005  
7 c 213 s 6 are each reenacted and amended to read as follows:

8            (1) It is unlawful for a person to operate any vehicle over and  
9 along a public highway of this state without first having obtained and  
10 having in full force and effect a current and proper vehicle license  
11 and display vehicle license number plates therefor as by this chapter  
12 provided.

13            (2) Failure to make initial registration before operation on the  
14 highways of this state is a traffic infraction, and any person  
15 committing this infraction shall pay a penalty of five hundred twenty-  
16 nine dollars, no part of which may be suspended or deferred.

17            (3) Failure to renew an expired registration before operation on  
18 the highways of this state is a traffic infraction.

1 (4) The licensing of a vehicle in another state by a resident of  
2 this state, as defined in RCW 46.16.028, evading the payment of any tax  
3 or license fee imposed in connection with registration, is a gross  
4 misdemeanor punishable as follows:

5 (a) For a first offense, up to one year in the county jail and  
6 payment of a fine of five hundred twenty-nine dollars plus twice the  
7 amount of delinquent taxes and fees, no part of which may be suspended  
8 or deferred;

9 (b) For a second or subsequent offense, up to one year in the  
10 county jail and payment of a fine of five hundred twenty-nine dollars  
11 plus four times the amount of delinquent taxes and fees, no part of  
12 which may be suspended or deferred;

13 (c) For fines levied under (b) of this subsection, an amount equal  
14 to the avoided taxes and fees owed will be deposited in the vehicle  
15 licensing fraud account created in the state treasury;

16 (d) The avoided taxes and fees shall be deposited and distributed  
17 in the same manner as if the taxes and fees were properly paid in a  
18 timely fashion.

19 (5) These provisions shall not apply to the following vehicles:

20 (a) Motorized foot scooters;

21 (b) Electric-assisted bicycles;

22 (c) Off-road vehicles operating on nonhighway roads under RCW  
23 46.09.115;

24 (d) Farm vehicles if operated within a radius of fifteen miles of  
25 the farm where principally used or garaged, farm tractors and farm  
26 implements including trailers designed as cook or bunk houses used  
27 exclusively for animal herding temporarily operating or drawn upon the  
28 public highways, and trailers used exclusively to transport farm  
29 implements from one farm to another during the daylight hours or at  
30 night when such equipment has lights that comply with the law;

31 (e) Spray or fertilizer applicator rigs designed and used  
32 exclusively for spraying or fertilization in the conduct of  
33 agricultural operations and not primarily for the purpose of  
34 transportation, and nurse rigs or equipment auxiliary to the use of and  
35 designed or modified for the fueling, repairing, or loading of spray  
36 and fertilizer applicator rigs and not used, designed, or modified  
37 primarily for the purpose of transportation;

1 (f) Fork lifts operated during daylight hours on public highways  
2 adjacent to and within five hundred feet of the warehouses which they  
3 serve: PROVIDED FURTHER, That these provisions shall not apply to  
4 vehicles used by the state parks and recreation commission exclusively  
5 for park maintenance and operations upon public highways within state  
6 parks;

7 (g) "Trams" used for transporting persons to and from facilities  
8 related to the horse racing industry as regulated in chapter 67.16 RCW,  
9 as long as the public right-of-way routes over which the trams operate  
10 are not more than one mile from end to end, the public rights-of-way  
11 over which the tram operates have an average daily traffic of not more  
12 than 15,000 vehicles per day, and the activity is in conformity with  
13 federal law. The operator must be a licensed driver and at least  
14 eighteen years old. For the purposes of this section, "tram" also  
15 means a vehicle, or combination of vehicles linked together with a  
16 single mode of propulsion, used to transport persons from one location  
17 to another;

18 (h) "Special highway construction equipment" defined as follows:  
19 Any vehicle which is designed and used primarily for grading of  
20 highways, paving of highways, earth moving, and other construction work  
21 on highways and which is not designed or used primarily for the  
22 transportation of persons or property on a public highway and which is  
23 only incidentally operated or moved over the highway. It includes, but  
24 is not limited to, road construction and maintenance machinery so  
25 designed and used such as portable air compressors, air drills, asphalt  
26 spreaders, bituminous mixers, bucket loaders, track laying tractors,  
27 ditchers, leveling graders, finishing machines, motor graders, paving  
28 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,  
29 lighting plants, welders, pumps, power shovels and draglines, self-  
30 propelled and tractor-drawn earth moving equipment and machinery,  
31 including dump trucks and tractor-dump trailer combinations which  
32 either (i) are in excess of the legal width, or (ii) which, because of  
33 their length, height, or unladen weight, may not be moved on a public  
34 highway without the permit specified in RCW 46.44.090 and which are not  
35 operated laden except within the boundaries of the project limits as  
36 defined by the contract, and other similar types of construction  
37 equipment, or (iii) which are driven or moved upon a public highway  
38 only for the purpose of crossing such highway from one property to

1 another, provided such movement does not exceed five hundred feet and  
2 the vehicle is equipped with wheels or pads which will not damage the  
3 roadway surface.

4 Exclusions:

5 "Special highway construction equipment" does not include any of  
6 the following:

7 Dump trucks originally designed to comply with the legal size and  
8 weight provisions of this code notwithstanding any subsequent  
9 modification which would require a permit, as specified in RCW  
10 46.44.090, to operate such vehicles on a public highway, including  
11 trailers, truck-mounted transit mixers, cranes and shovels, or other  
12 vehicles designed for the transportation of persons or property to  
13 which machinery has been attached.

14 (6) The following vehicles, whether operated solo or in  
15 combination, are exempt from license registration and displaying  
16 license plates as required by this chapter:

17 (a) A converter gear used to convert a semitrailer into a trailer  
18 or a two-axle truck or tractor into a three or more axle truck or  
19 tractor or used in any other manner to increase the number of axles of  
20 a vehicle. Converter gear includes an auxiliary axle, booster axle,  
21 dolly, and jeep axle.

22 (b) A tow dolly that is used for towing a motor vehicle behind  
23 another motor vehicle. The front or rear wheels of the towed vehicle  
24 are secured to and rest on the tow dolly that is attached to the towing  
25 vehicle by a tow bar.

26 (c) An off-road vehicle operated on a street, road, or highway as  
27 authorized under RCW 46.09.180.

28 (7)(a) A motor vehicle subject to initial or renewal registration  
29 under this section shall not be registered to a natural person unless  
30 the person at time of application:

31 (i) Presents an unexpired Washington state driver's license; or

32 (ii) Certifies that he or she is:

33 (A) A Washington resident who does not operate a motor vehicle on  
34 public roads; or

35 (B) Exempt from the requirement to obtain a Washington state  
36 driver's license under RCW 46.20.025.

37 (b) For shared or joint ownership, the department will set up

1 procedures to verify that all owners meet the requirements of this  
2 subsection.

3 (c) A person falsifying residency is guilty of a gross misdemeanor  
4 punishable only by a fine of five hundred twenty-nine dollars.

5 (d) The department may adopt rules necessary to implement this  
6 subsection, including rules under which a natural person applying for  
7 registration may be exempt from the requirements of this subsection  
8 where the person provides evidence satisfactory to the department that  
9 he or she has a valid and compelling reason for not being able to meet  
10 the requirements of this subsection.

11 **Sec. 2.** RCW 46.09.115 and 2005 c 213 s 4 are each amended to read  
12 as follows:

13 (1) Except as otherwise provided in this section, it is lawful to  
14 operate an off-road vehicle upon:

15 (a) A nonhighway road and in parking areas serving designated off-  
16 road vehicle areas if the state, federal, local, or private authority  
17 responsible for the management of the nonhighway road authorizes the  
18 use of off-road vehicles; and

19 (b) A street, road, or highway as authorized under RCW 46.09.180.

20 (2) Operations of an off-road vehicle on a nonhighway road, or on  
21 a street, road, or highway as authorized under RCW 46.09.180, under  
22 this section is exempt from licensing requirements of RCW 46.16.010 and  
23 vehicle lighting and equipment requirements of chapter 46.37 RCW.

24 (3) It is unlawful to operate an off-road vehicle upon a private  
25 nonhighway road if the road owner has not authorized the use of off-  
26 road vehicles.

27 (4) Nothing in this section authorizes trespass on private  
28 property.

29 (5) The provisions of RCW 4.24.210(5) shall apply to public  
30 landowners who allow members of the public to use public facilities  
31 accessed by a highway, street, or nonhighway road for recreational off-  
32 road vehicle use.

33 **Sec. 3.** RCW 46.09.120 and 2005 c 213 s 3 are each amended to read  
34 as follows:

35 (1) Except as provided in subsection (4) of this section, it is a  
36 traffic infraction for any person to operate any nonhighway vehicle:

1 (a) In such a manner as to endanger the property of another;

2 (b) On lands not owned by the operator or owner of the nonhighway  
3 vehicle without a lighted headlight and taillight between the hours of  
4 dusk and dawn, or when otherwise required for the safety of others  
5 regardless of ownership;

6 (c) On lands not owned by the operator or owner of the nonhighway  
7 vehicle without an adequate braking device or when otherwise required  
8 for the safety of others regardless of ownership;

9 (d) Without a spark arrester approved by the department of natural  
10 resources;

11 (e) Without an adequate, and operating, muffling device which  
12 effectively limits vehicle noise to no more than eighty-six decibels on  
13 the "A" scale at fifty feet as measured by the Society of Automotive  
14 Engineers (SAE) test procedure J 331a, except that a maximum noise  
15 level of one hundred and five decibels on the "A" scale at a distance  
16 of twenty inches from the exhaust outlet shall be an acceptable  
17 substitute in lieu of the Society of Automotive Engineers test  
18 procedure J 331a when measured:

19 (i) At a forty-five degree angle at a distance of twenty inches  
20 from the exhaust outlet;

21 (ii) With the vehicle stationary and the engine running at a steady  
22 speed equal to one-half of the manufacturer's maximum allowable ("red  
23 line") engine speed or where the manufacturer's maximum allowable  
24 engine speed is not known the test speed in revolutions per minute  
25 calculated as sixty percent of the speed at which maximum horsepower is  
26 developed; and

27 (iii) With the microphone placed ten inches from the side of the  
28 vehicle, one-half way between the lowest part of the vehicle body and  
29 the ground plane, and in the same lateral plane as the rearmost exhaust  
30 outlet where the outlet of the exhaust pipe is under the vehicle;

31 (f) On lands not owned by the operator or owner of the nonhighway  
32 vehicle upon the shoulder or inside bank or slope of any nonhighway  
33 road or highway, or upon the median of any divided highway;

34 (g) On lands not owned by the operator or owner of the nonhighway  
35 vehicle in any area or in such a manner so as to unreasonably expose  
36 the underlying soil, or to create an erosion condition, or to injure,  
37 damage, or destroy trees, growing crops, or other vegetation;

1 (h) On lands not owned by the operator or owner of the nonhighway  
2 vehicle or on any nonhighway road or trail, when these are restricted  
3 to pedestrian or animal travel;

4 (i) On any public lands in violation of rules and regulations of  
5 the agency administering such lands; and

6 (j) On a private nonhighway road in violation of RCW 46.09.115(3).

7 (2) It is a misdemeanor for any person to operate any nonhighway  
8 vehicle while under the influence of intoxicating liquor or a  
9 controlled substance.

10 (3)(a) Except for an off-road vehicle equipped with seat belts and  
11 roll bars or an enclosed passenger compartment, it is a traffic  
12 infraction for any person to operate or ride an off-road vehicle on a  
13 nonhighway road without wearing upon his or her head a motorcycle  
14 helmet fastened securely while in motion. For purposes of this  
15 section, "motorcycle helmet" has the same meaning as provided in RCW  
16 46.37.530.

17 (b) Subsection (3)(a) of this section does not apply to an off-road  
18 vehicle operator operating on his or her own land.

19 (c) Subsection (3)(a) of this section does not apply to an off-road  
20 vehicle operator operating on agricultural lands owned or leased by the  
21 off-road vehicle operator or the operator's employer.

22 (4) It is not a traffic infraction to operate an off-road vehicle  
23 on a street, road, or highway as authorized under RCW 46.09.180.

24 **Sec. 4.** RCW 46.09.180 and 1977 ex.s. c 220 s 15 are each amended  
25 to read as follows:

26 Notwithstanding any of the provisions of this chapter, any city,  
27 county, or other political subdivision of this state, or any state  
28 agency, may regulate the operation of nonhighway vehicles on public  
29 lands, waters, and other properties under its jurisdiction, and on  
30 streets, roads, or highways within its boundaries by adopting  
31 regulations or ordinances of its governing body, provided such  
32 regulations are not less stringent than the provisions of this chapter.  
33 However, the legislative body of a city with a population of less than  
34 three thousand persons may, by ordinance, designate a street or highway  
35 within its boundaries to be suitable for use by off-road vehicles. The  
36 legislative body of a county may, by ordinance, designate a road or  
37 highway within its boundaries to be suitable for use by off-road

1 vehicles if the road or highway is a direct connection between a city  
2 with a population of less than three thousand persons and an off-road  
3 vehicle recreation facility.

4 **Sec. 5.** RCW 46.37.010 and 2005 c 213 s 7 are each amended to read  
5 as follows:

6 (1) It is a traffic infraction for any person to drive or move or  
7 for the owner to cause or knowingly permit to be driven or moved on any  
8 highway any vehicle or combination of vehicles which is in such unsafe  
9 condition as to endanger any person, or which does not contain those  
10 parts or is not at all times equipped with such lamps and other  
11 equipment in proper condition and adjustment as required in this  
12 chapter or in regulations issued by the chief of the Washington state  
13 patrol, or which is equipped in any manner in violation of this chapter  
14 or the state patrol's regulations, or for any person to do any act  
15 forbidden or fail to perform any act required under this chapter or the  
16 state patrol's regulations.

17 (2) Nothing contained in this chapter or the state patrol's  
18 regulations shall be construed to prohibit the use of additional parts  
19 and accessories on any vehicle not inconsistent with the provisions of  
20 this chapter or the state patrol's regulations.

21 (3) The provisions of the chapter and the state patrol's  
22 regulations with respect to equipment on vehicles shall not apply to  
23 implements of husbandry, road machinery, road rollers, or farm tractors  
24 except as herein made applicable.

25 (4) No owner or operator of a farm tractor, self-propelled unit of  
26 farm equipment, or implement of husbandry shall be guilty of a crime or  
27 subject to penalty for violation of RCW 46.37.160 as now or hereafter  
28 amended unless such violation occurs on a public highway.

29 (5) It is a traffic infraction for any person to sell or offer for  
30 sale vehicle equipment which is required to be approved by the state  
31 patrol as prescribed in RCW 46.37.005 unless it has been approved by  
32 the state patrol.

33 (6) The provisions of this chapter with respect to equipment  
34 required on vehicles shall not apply to motorcycles or motor-driven  
35 cycles except as herein made applicable.

36 (7) This chapter does not apply to off-road vehicles used on

1 nonhighway roads or used on streets, roads, or highways as authorized  
2 under RCW 46.09.180.

3 (8) This chapter does not apply to vehicles used by the state parks  
4 and recreation commission exclusively for park maintenance and  
5 operations upon public highways within state parks.

6 (9) Notices of traffic infraction issued to commercial drivers  
7 under the provisions of this chapter with respect to equipment required  
8 on commercial motor vehicles shall not be considered for driver  
9 improvement purposes under chapter 46.20 RCW.

10 (10) Whenever a traffic infraction is chargeable to the owner or  
11 lessee of a vehicle under subsection (1) of this section, the driver  
12 shall not be arrested or issued a notice of traffic infraction unless  
13 the vehicle is registered in a jurisdiction other than Washington  
14 state, or unless the infraction is for an offense that is clearly  
15 within the responsibility of the driver.

16 (11) Whenever the owner or lessee is issued a notice of traffic  
17 infraction under this section the court may, on the request of the  
18 owner or lessee, take appropriate steps to make the driver of the  
19 vehicle, or any other person who directs the loading, maintenance, or  
20 operation of the vehicle, a codefendant. If the codefendant is held  
21 solely responsible and is found to have committed the traffic  
22 infraction, the court may dismiss the notice against the owner or  
23 lessee.

24 **Sec. 6.** RCW 4.24.210 and 2003 c 39 s 2 and 2003 c 16 s 2 are each  
25 reenacted and amended to read as follows:

26 (1) Except as otherwise provided in subsection (3) or (4) of this  
27 section, any public or private landowners or others in lawful  
28 possession and control of any lands whether designated resource, rural,  
29 or urban, or water areas or channels and lands adjacent to such areas  
30 or channels, who allow members of the public to use them for the  
31 purposes of outdoor recreation, which term includes, but is not limited  
32 to, the cutting, gathering, and removing of firewood by private persons  
33 for their personal use without purchasing the firewood from the  
34 landowner, hunting, fishing, camping, picnicking, swimming, hiking,  
35 bicycling, skateboarding or other nonmotorized wheel-based activities,  
36 hanggliding, paragliding, rock climbing, the riding of horses or other  
37 animals, clam digging, pleasure driving of off-road vehicles,

1 snowmobiles, and other vehicles, boating, nature study, winter or water  
2 sports, viewing or enjoying historical, archaeological, scenic, or  
3 scientific sites, without charging a fee of any kind therefor, shall  
4 not be liable for unintentional injuries to such users.

5 (2) Except as otherwise provided in subsection (3) or (4) of this  
6 section, any public or private landowner or others in lawful possession  
7 and control of any lands whether rural or urban, or water areas or  
8 channels and lands adjacent to such areas or channels, who offer or  
9 allow such land to be used for purposes of a fish or wildlife  
10 cooperative project, or allow access to such land for cleanup of litter  
11 or other solid waste, shall not be liable for unintentional injuries to  
12 any volunteer group or to any other users.

13 (3) Any public or private landowner, or others in lawful possession  
14 and control of the land, may charge an administrative fee of up to  
15 twenty-five dollars for the cutting, gathering, and removing of  
16 firewood from the land.

17 (4) Nothing in this section shall prevent the liability of a  
18 landowner or others in lawful possession and control for injuries  
19 sustained to users by reason of a known dangerous artificial latent  
20 condition for which warning signs have not been conspicuously posted.  
21 A fixed anchor used in rock climbing and put in place by someone other  
22 than a landowner is not a known dangerous artificial latent condition  
23 and a landowner under subsection (1) of this section shall not be  
24 liable for unintentional injuries resulting from the condition or use  
25 of such an anchor. Nothing in RCW 4.24.200 and (~~4.24.210~~) this  
26 section limits or expands in any way the doctrine of attractive  
27 nuisance. Usage by members of the public, volunteer groups, or other  
28 users is permissive and does not support any claim of adverse  
29 possession.

30 (5) For purposes of this section, the following are not fees:

31 (a) A license or permit issued for statewide use under authority of  
32 chapter 79A.05 RCW or Title 77 RCW (~~is not a fee~~); and

33 (b) A daily charge not to exceed twenty dollars per person, per  
34 day, for access to a publicly owned ORV sports park, as defined in RCW  
35 46.09.020, or other public facility accessed by a highway, street, or  
36 nonhighway road for the purposes of off-road vehicle use.

Passed by the House March 4, 2006.

Passed by the Senate March 1, 2006.

Approved by the Governor March 24, 2006.

Filed in Office of Secretary of State March 24, 2006.